

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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GERBER FINANCE, INC.,	: Case No. 21-cv-507-JSR
	:
Plaintiff/Counterclaim-	: Hon. Jed S. Rakoff
Defendant,	:
	: <u>NOTICE OF MOTION</u>
-against-	:
	:
VOLUME SNACKS INC., <i>et al.</i> ,	:
	:
Defendants/Counterclaim-	:
Plaintiffs.	:
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PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, dated April 19, 2021, and all other prior proceedings held herein, Plaintiff and Counterclaim-Defendant Gerber Finance, Inc., by its attorneys, Loeb & Loeb LLP, will move this Court at the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, NY 10007-1312, before the Honorable Jed S. Rakoff, as soon as counsel can be heard, for an Order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the Counterclaims of Defendants and Counterclaim-Plaintiffs Volume Snacks Inc., Tracy Freeman, and Denise O'Brien on the ground that the Counterclaims fail to state a claim upon which relief can be granted, together with such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to the minute entry entered on April 12, answering papers, if any, shall be filed and served on or before May 3, 2021, and reply papers shall be filed and served on or before May 12, 2021. Oral argument on the motion is scheduled for May 19, 2021 at 4:00 p.m. (ET).

Dated: New York, New York
April 19, 2021

LOEB & LOEB LLP

By: /s/ Vadim J. Rubinstein

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